



DEPARTMENT OF THE NAVY  
BOARD FOR CORRECTION OF NAVAL RECORDS  
701 S. COURTHOUSE RD  
ARLINGTON, VA 22204

██████████  
Docket No. 4240-25  
Ref: Signature Date

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Dear Petitioner:

This is in reference to your application for correction of your naval record pursuant to Title 10, United States Code, Section 1552. After careful and conscientious consideration of relevant portions of your naval record and your application, the Board for Correction of Naval Records (Board) found the evidence submitted insufficient to establish the existence of probable material error or injustice. Consequently, your application has been denied.

Although your application was not filed in a timely manner, the Board found it in the interest of justice to waive the statute of limitations and consider your case on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 13 February 2025. The names and votes of the panel members will be furnished upon request. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of the Board. Documentary material considered by the Board consisted of your application together with all material submitted in support thereof, relevant portions of your naval record, and applicable statutes, regulations, and policies, to include the 25 August 2017 guidance from the Office of the Under Secretary of Defense for Personnel and Readiness (Kurta Memo) and 25 July 2018 guidance from the Under Secretary of Defense for Personnel and Readiness regarding equity, injustice or clemency determinations (Wilkie Memo). The Board also considered the advisory opinion (AO) of a qualified mental health provider. Although you were afforded an opportunity to submit a rebuttal, you chose not to do so.

The following is the relevant factual background of your case based upon review of your naval record and/or the matters provided with your application:

1. You enlisted in the Navy and began a period of active duty on 22 February 1983.
2. You earned a Navy Achievement Medal for the period from 15 July 1983 through 20 February 1984 for meritorious performance of your duties as a postal clerk.
3. On 13 December 1984, you received nonjudicial punishment (NJP) for violating Article 92, Uniform Code of Military Justice (UCMJ), due to dereliction of duty.

4. On 27 January 1985, military police were dispatched for the suspected theft of a Department of Defense (DoD) vehicle decal from another vehicle. You were subsequently apprehended and, following this incident, due to marital discord, you cut your wrists.

5. On 8 March 1985, you received a second NJP for UCMJ violations that included two specifications under Article 92, for failure to obey a lawful regulation and for dereliction in the performance of duty, Article 95, for breaking arrest, Article 115, for intentional self-injury resulting your inability to perform your military duties, and, Article 121, for wrongful appropriation of a DoD year tab.

6. On 13 March 1985, you also received a psychological examination during which you related childhood traumas. The provider documented an initial diagnostic impression of mixed personality disorder.

7. Your commanding officer sent a naval message to Commander, Naval Personnel Command (CNPC), notifying of his intent to initiate administrative separation proceedings, via notification procedure, by reason of convenience of the government due to your personality disorder. However, CNPC responded that, due to your misconduct, the proposed administrative separation was required to include notification of the basis of misconduct.

8. As a result, you were notified via administrative board procedures that you were being processed for administrative separation by reason of misconduct due to commission of a serious offense and you elected to request a hearing before an administrative separation board (ASB). You wrote a written statement for the consideration by your administrative separation board members in which you stated that you felt your recent problems had been due to an emotional disorder caused by separation from our spouse. Additionally, your leading petty officer wrote a letter of support in favor of your retention on active duty. On 2 May 1985, the ASB found the basis for separation for misconduct due to commission of a serious offense was supported by a preponderance of the evidence and recommended that you be separated with a characterization of service under Other Than Honorable (OTH) conditions.

9. Your commanding officer forwarded a concurring recommendation to CNPC and your separation was approved under OTH by reason of misconduct due to commission of a serious offense. You were so discharged on 10 September 1985.

After careful review, the Board reached the following conclusions and denied your application for relief.

The Board initially concluded you were appropriately processed for administrative separation based on your record of misconduct. While the Board carefully considered your contention for mitigation, the Board noted you did not deny committing the misconduct. Therefore, the Board determined the presumption of regularity applies to the finding that you committed the misconduct that formed the basis of your administrative separation and no error exists with your OTH characterization of service.

However, because you raised the issue of mental health, the Board also requested an AO. The AO stated in pertinent part:

Petitioner was appropriately referred for psychological evaluation and properly evaluated during his enlistment. His personality disorder diagnosis was based on observed behaviors and performance during his period of service, the information he chose to disclose, and the psychological evaluation performed by the mental health clinician. There is no medical evidence of another mental health condition incurred in or exacerbated by military service. Temporally remote to his military service, he has received a diagnosis of a mental health condition that has not been attributed to military service by VA clinicians. His misconduct appears consistent with his diagnosed characterological defects. Additional records (e.g., post-service mental health records describing the Petitioner's diagnosis, symptoms, and their specific link to his misconduct) may aid in rendering an alternate opinion.

The AO concluded, "it is my considered clinical opinion that there is insufficient evidence of a mental health condition that may be attributed to military service. There is insufficient evidence to attribute his misconduct to a mental health condition, other than personality disorder."

The Board applied liberal consideration to your claim that you suffered from a mental health condition, and to the effect that this condition may have had upon the conduct for which you were discharged in accordance with the Kurta Memo. Applying such liberal consideration, the Board found insufficient evidence of a diagnosis of mental health condition that may be attributed to military service. This conclusion is supported by the AO and your post-service medical evidence. Additionally, even applying liberal consideration, the Board found insufficient evidence to conclude that the misconduct for which you were discharged was excused or mitigated by your mental health condition. In this regard, the Board simply had insufficient information available upon which to make such a conclusion and concurred with the AO that your misconduct appears to be consistent with your diagnosed personality disorder. Moreover, even if the Board assumed that your misconduct was somehow attributable to any mental health conditions, the Board unequivocally concluded that the severity of your serious misconduct more than outweighed the potential mitigation offered by any mental health conditions.

In addition to applying liberal consideration to your claimed mental health condition and its potential effect upon your conduct in accordance with the Kurta Memo, the Board also considered the totality of the circumstances to determine whether equitable relief is warranted in the interests of justice in accordance with the Wilkie Memo. In this regard, the Board considered, amongst other factors, your contentions, the totality of your service, your relative youth and immaturity at the time of your misconduct, the negative effect your discharge has had on your life, your rehabilitation efforts, your post-service record of accomplishments, your candor and remorse, your service to your community, your current mental health issues, your advanced age, and the passage of time since your discharge.

The Board found that the mitigating factors were not nearly sufficient to justify any equitable relief. Specifically, the Board found that the severity of your misconduct far outweighed all of the mitigating factors combined. In particular, the Board found that your conduct showed a complete disregard for military authority and regulations. The Board observed you were given multiple opportunities to correct your conduct deficiencies but chose to continue to commit misconduct, which led to your OTH discharge. Your conduct not only showed a pattern of misconduct but was sufficiently pervasive and serious to negatively affect the good order and

discipline of your command. In addition, the Board found that the misconduct of your second NJP clearly constituted several serious offenses, in particular your wrongful appropriation of DoD decals which were intended to verify security and access of vehicles entering military installations. The Board found the positive aspects of your service were insufficient to overcome the cumulative negative effect of your misconduct. Finally, the Board believed that it would be unjust to characterize your less than honorable service in the same manner as the service of the thousands of service members who, unlike you, honorably completed their enlistments without engaging in misconduct warranting the early curtailment of their service. Therefore, the Board did not find an upgrade of your discharge to General (Under Honorable Conditions) or Honorable to be warranted in the interests of justice. While the Board commends you for your post-service accomplishments, ultimately, the Board concluded the mitigation evidence you provided was insufficient to outweigh the seriousness of your misconduct.

Accordingly, given the totality of the circumstances, the Board determined your request does not merit relief.

You are entitled to have the Board reconsider its decision upon the submission of new matters, which will require you to complete and submit a new DD Form 149. New matters are those not previously presented to or considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity is attached to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

2/25/2026

